



Practitioner's Docket No. 59559 (70551)  
PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: M. Hamamoto  
Application No.: 10/618,301 Group No.: 3644  
Filed: July 11, 2003 Examiner: Holzen, Stephen A.  
For: RISING AND MOVING APPARATUS AND MANUFACTURING METHOD  
THEREOF

Mail Stop: AMENDMENT  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

AMENDMENT TRANSMITTAL

1. Transmitted herewith is a Request for Reconsideration for this application.

STATUS

2. Applicant is  
[ ] a small entity. A statement:  
[ ] is attached.  
[ ] was already filed.  
[ X ] other than a small entity.

EXTENSION OF TERM

NOTE: "Extension of Time in Patent Cases (Supplement Amendments) -- If a timely and complete response has been filed after a

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CERTIFICATE OF EXPRESS MAILING/TRANSMISSION (37 C.F.R. SECTION 1.10)

I hereby certify that, on the date shown below, this correspondence is being:

MAILING

[ x ] deposited with the United States Postal Service  
"Express Mail Post Office to Addressee" service  
under 37 CFR 1.10 (Express Mail Label No.  
EV 438974965 US), and is addressed to the  
Commissioner for Patents, P.O. Box 1450,  
Alexandria, VA 22313-1450 on

FACSIMILE

[ ] transmitted by facsimile to the Patent and  
Trademark Office (703) \_\_\_\_\_

Kathryn A. Grindrod  
Signature

Kathryn A. Grindrod

(type or print name of person certifying)

Date: August 3, 2004

*Non-Final Office Action, an extension of time is not required to permit filing and/or entry of an additional amendment after expiration of the shortened statutory period.*

*If a timely response has been filed after a Final Office Action, an extension of time is required to permit filing and/or entry of a Notice of Appeal or filing and/or entry of an additional amendment after expiration of the shortened statutory period unless the timely-filed response placed the application in condition for allowance. Of course, if a Notice of Appeal has been filed within the shortened statutory period, the period has ceased to run." Notice of December 10, 1985 (1061 O.G. 34-35).*

**NOTE:** See 37 C.F.R. Section 1.645 for extensions of time in interference proceedings, and 37 C.F.R. Section 1.550(c) for extensions of time in reexamination proceedings.

3. The proceedings herein are for a patent application and the provisions of 37 C.F.R. Section 1.136 apply.

*(complete (a) or (b), as applicable)*

- (a)  [ ] Applicant petitions for an extension of time under 37 C.F.R. Section 1.136 (fees: 37 C.F.R. Section 1.17(a)(1)-(4)) for the total number of months checked below:

	Extension (months)	Fee for other than <u>small entity</u>	Fee for <u>small entity</u>
<input type="checkbox"/> [ ]	one month	\$ 110.00	\$ 55.00
<input type="checkbox"/> [ ]	two months	\$ 420.00	\$ 210.00
<input type="checkbox"/> [ ]	three months	\$ 950.00	\$ 475.00
<input type="checkbox"/> [ ]	four months	\$ 1,480.00	\$ 740.00

Fee: \$ \_\_\_\_\_

If an additional extension of time is required, please consider this a petition therefor.

*(check and complete the next item, if applicable)*

- [ ] An extension for \_\_\_\_\_ months has already been secured. The fee paid therefor of \$ \_\_\_\_\_ is deducted from the total fee due for the total months of extension now requested.

Extension fee due with this request \$ \_\_\_\_\_

**OR**

- (b)  [ X ] Applicant believes that no extension of term is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition for extension of time.

## FEE FOR CLAIMS

4. The fee for claims (37 C.F.R. Section 1.16(b)-(d)) has been calculated as shown below

(Col.1)	(Col. 2)	SMALL ENTITY			<b>OR</b>	OTHER THAN A SMALL ENTITY	
Claims Remaining After Amendment	Highest No. Previously Paid For	Present Extra	Rate	Addit. Fee		Rate	Addit. Fee
			<b>\$9.00</b>	\$		<b>\$18.00</b>	\$
Independent Claims Remaining After Amendment	Highest No. Previously Paid For		<b>\$43.00</b>	\$		<b>\$86.00</b>	\$
First Presentation of Multiple Dependent Claim+			<b>\$145.00</b>	\$		<b>\$290.00</b>	\$
					<b>Total Addit. Fee</b>		\$

- \* If the entry in Col. 1 is less than the entry in Col. 2, write "O" in Col. 3,
  - \*\* If the "Highest No. Previously Paid For" IN THIS SPACE is less than 20, enter "20".
  - \*\*\* If the "Highest No. Previously Paid For" IN THIS SPACE is less than 3, enter "3".
- The "Highest No. Previously Paid For" (Total or Indep.) is the highest number found in the appropriate box in Col. 1 of a prior amendment or the number of claims originally filed.

**WARNING:** *"After final rejection or action (Section 1.113) amendments may be made canceling claims or complying with any requirement of form which has been made." 37 C.F.R. Section 1.116(a) (emphasis added).*

*(complete (c) or (d), as applicable)*

(c)  No additional fee for claims is required.

**OR**

(d)  Total additional fee for claims required \$ \_\_\_\_\_.

### FEE PAYMENT

5.  Attached is a check in the sum of \$ \_\_\_\_\_.
- Charge Account No. \_\_\_\_\_ the sum of \$ \_\_\_\_\_.
- A duplicate of this transmittal is attached.

## FEE DEFICIENCY

*NOTE: If there is a fee deficiency and there is no authorization to charge an account, additional fees are necessary to cover the additional time consumed in making up the original deficiency. If the maximum, six-month period has expired before the deficiency is noted and corrected, the application is held abandoned. In those instances where authorization to charge is included, processing delays are encountered in returning the papers to the PTO Finance Branch in order to apply these charges prior to action on the cases. Authorization to charge the deposit account for any fee deficiency should be checked. See the Notice of April 7, 1986, (1065 O.G. 31-33).*

6.  If any additional extension and/or fee is required, charge Account No. 04-1105.

AND/OR

- If any additional fee for claims is required, charge Account No. 04-1105.

Date: August 3, 2004

David A. Tucker  
SIGNATURE OF PRACTITIONER

Reg. No. 27,840

David A. Tucker  
(type or print name of practitioner)  
Attorney for Applicant

Tel. No. (617) 517-5508

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P.O. Box 55874  
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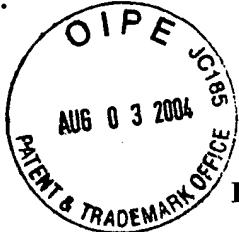
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Attorney Docket No. 59559 (70551)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT(S): M. Hamamoto

SERIAL NO: 10/618,301 EXAMINER: Holzen, Stephen A.

FILED: July 11, 2003 GROUP: 3644

FOR: RISING AND MOVING APPARATUS AND  
MANUFACTURING METHOD THEREOF

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**CERTIFICATE OF EXPRESS MAILING**

I hereby certify that this correspondence is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 (Express Mail Label No. EV 438974965 US), and is addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on August 3, 2004.

By: Kathryn A. Grindrod  
Kathryn A. Grindrod

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**Mail Stop: AMENDMENT**  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**RESPONSE TO NON-FINAL OFFICIAL  
ACTION REQUIRING ELECTION/RESTRICTION**

This is in response to the currently outstanding non-final Official Action in the above-identified case dated July 16, 2004.

Claims 1-35 are pending in the subject application. Claims 1-35 are subject to restriction and/or election requirement.

In the currently outstanding non-final Official Action, the Examiner has:

1. Identified the following inventions claimed in the present application that he alleges to be patentably distinct from one another:

Group I, claims 1-30 drawn to a rising and moving apparatus, classified in class 244, subclass 72.

Group II, claims 31-35, a method of manufacturing a rising and moving apparatus, classified in class 244, subclass 72.

2. Required the Applicants to elect one of the foregoing inventions under 35 USC 121 for prosecution on the merits of this application.
3. Required Applicant to elect one of the species identified as a first, a second, a third, or a fourth embodiment of the invention as set forth in the present specification a pages 17-22 on the basis that each of those species is patentably distinct from the others.

In response to the currently outstanding requirement for restriction, **Applicant hereby elects Group I, Claims 1-30, and the species of the first embodiment of the invention identified at pages 17-22 of the present specification, without traverse** for further prosecution in the merits in this application.

Applicant respectfully submits that all of the elected Claims 1-30 of Group I are readable on the elected species (i.e., the first embodiment identified at pages 17-22 of the present specification) as shown in Figures 1 to 37 of the present application. In that regard, Applicant respectfully submits that Figures 15 to 24 are particularly relevant.

Applicant respectfully submits, without prejudice to such future comment as may become appropriate in this prosecution, that the species of the Group I invention identified at pages 17-22 of (and otherwise described in) the present specification *potentially might be claimed* in a manner such that the resultant claims were directed to “patentably distinct” species (embodiments) of the Group I invention. Applicant also respectfully submits, however, that Claims 1-30 as presently presented are not specifically and solely directed to patentably distinct embodiments of the Group I invention as suggested by the Examiner in the currently outstanding Official Action. Consequently, Applicant is not presently traversing the Examiner’s assertion that the embodiments of the Group I invention identified at pages 17-22 of the present specification might, at some future time, be claimed in such a manner as to be patentably distinct from one another, but rather is asserting that with respect to the Group I invention Claims 1-30 presently do not include claims separately directed to patentably distinct embodiments of the Group I invention.

Since Applicant has (i) elected the Group I invention, (ii) elected the species of the so-called “first embodiment” listed at pages 17-22 of the present specification, and (iii) specified the claims of the Group I invention that are readable on the elected species (i.e., the first embodiment), Applicant respectfully submits that this communication is fully responsive to the currently outstanding Official Action in the above-identified application.

Early substantive consideration and allowance, therefore, are respectfully requested.

Applicant also believes that additional fees beyond those submitted herewith are not required in connection with the consideration of this response to the currently outstanding Official Action. However, if for any reason a fee is required, a fee paid is inadequate or credit is owed for any excess fee paid, you are hereby authorized and requested to charge and/or credit Deposit Account No. 04-1105, as necessary, for the correct payment of all fees which may be due in connection with the filing and consideration of this communication.

Respectfully submitted,

Date: August 3, 2004

David A. Tucker  
SIGNATURE OF PRACTITIONER

Reg. No.: 27,840

David A. Tucker  
(type or print name of practitioner)  
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